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Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary Examiner | | Application No. | Applicant(s) | | | |
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| Examiner Robert E Pezzuto 3671 371 | • | | | | | |
| Robert E Pezzuto 77 the MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. 1 the period for reply specified above is less than stilly (0) days, a reply within the statutory nationary of the reply specified above is less than stilly (0) days, a reply within the statutory relief water floor for reply specified above is less than stilly (0) days, a reply within the statutory relief water floor than still and the statutory relief water floor with the period for reply specified above is less than stilly (0) days, a reply visition than statutory relief water floor than still and the period for reply specified above is less than stilling year of water possible of the mailing date of this communication of the period for reply specified above is less than stilling year of the period for reply specified above is less than stilling year of the statutory relief water floor than stilling and a statutory specified above is less than stilling year of the statutory reply received by the confidence of the statutory reply received by the confidence is less than stilling and the statutory reply received by the confidence of the statutory reply received by the statutory reply reply received by the statutory reply received by the statutory reply reply received by the statutory reply received by the statutory reply reply received by the statutory reply received by the statutory reply received by the statutory reply reply received by reply received | New Action Summary | | | | | |
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| Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. E detailed of the may be available under the provisions of 37 CFR 1.35(a), in no event, however, may a reply be timply filed E this period for reply as pecified above, the maximum detailed previously within the statistic principle under the provisions of 37 CFR 1.75(a), while the statistic principle under the provision of the provi | | | | | | |
| THE MAILING DATE OF THIS COMMUNICATION. Estancishor of time may be variable under the provision of 3 CPR 1.15(6). In no event, horward, may a ripply be limity field after SX (6) MONTHS from the mailing date of this communication, in the provision of the communication of the provision of Claims 4) Claim(s) 2-23 is/are pending in the application. 4) Claim(s) 2-23 is/are allowed. 6) Claim(s) 2-23 is/are pending in the application. 4) Claim(s) 2-25 is/are allowed. 6) Claim(s) 2-25 is/are pending in the application. 4) Claim(s) 2-25 is/are pending in the application of the pending application of the | | | • | | | |
| 1) Responsive to communication(s) filed on 11 April 2002. 2a | THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a replication of the period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). | 36(a). In no event, however, may a reply within the statutory minimum of thirty (30 will apply and will expire SIX (6) MONTHS , cause the application to become ABANI | be timely filed O) days will be considered timely. From the mailing date of this communication. DONED (35 U.S.C. § 133). | | | |
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Art Unit: 3671

DETAILED ACTION

Reissue Applications

Claims 2 and 11 are rejected as attempting to improperly broaden the scope of the claimed device by recapturing previously surrendered subject matter.

While the parent application (08/928,829) was issued after a first Office Action, and normally such issues are not guilty of recapture, in the instant case there exists a parent application (08/641,505) with a prosecution history, which lends itself to the recapture of surrendered subject matter.

In the parent '505 the applicant argues 6 reasons as to why the claims are patentable over the prior art (response in '505 application, filed July 17, 1997, paper number 6, pages 7-9); 5 of which appear in the claimed subject matter. Therefore, in order for these claims to have been patented, the applicant has surrendered claims that lack at least one of the above 5 limitations.

Furthermore, in the '829 application there is a single claim that is identical to claim 1 of the '505 application but adds the limitation of (f). Clearly the applicant employs the limitation(s) of (f) to overcome a possible double patenting problem and therein surrenders claims not containing (f).

As a result, in order to overcome the recapture issue, the reissue claims must contain at least one of the limitations as argued for patentability in the '505 application or contain limitations identical in scope to (f) of the '829 application.

Page 3

Application/Control Number: 09/541,162

Art Unit: 3671

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert E Pezzuto whose telephone number is (703) 308-1012. The examiner can normally be reached on 7:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B Will can be reached on (703) 308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-8623 for regular communications and (703) 308-8623 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1212.

Robert E ezzuto August 27, 2002